

United States Bankruptcy Court
Eastern District of New York

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

In re:

2020 MAR -9 A 10:27 Chapter 13
Case No. 19-42942 (NHL)
Hon Nancy Hershey Lord
RECEIVED

Thanwar K Punjabi
Debtor

OBJECTION TO CREDITOR'S MOTION TO DISMISS
& AFFIDAVIT IN OPPOSITION TO CREDITOR'S MOTION TO DISMISS

I, Thanwar K Punjabi, am the debtor in the captioned Chapter 13 Bankruptcy Case, do hereby oppose the Creditor's motion to dismiss for which I state as herebelow:-

1). That my Violation of Automatic Stay is before Your Honor for which I was told in the last hearing on Jan 22, 2020 at 2:30PM hearing that a trial will be held sometime in February 2020 to adjudicate my claims against the same creditor who is seeking to dismiss my bankruptcy case and until the said Violation is held the case not be dismissed as Your Honor had also told me that the Violation of Automatic Stay Claim cannot be held after the dismissal of the case.

Further Points 16, 17, 18 together with Exhibits H & I raised in defence by creditor SPS as Inspection of Property by creditor and all their 3 law firms, creditor himself proves and admits nothing but the fact that they were hounding and following me all along during the entire bankruptcy stay from May 13, 2019 onwards till date while if they really wanted to find out if the house was occupied all they had to do was to see the lights turned on in the evening and turned off at night and to call me as they did call me to make an appraisal appointment and also called me to stipulate an adjournment of a court date, both times I was always reachable by both phone and email.

Moreover their own reports in Exhibits H & I indicate & state very clearly that there are NO citation/violations at all

2). That in Point 3 page 1 the creditor states that my secured debts are beyond the jurisdictional limits of Chapter 13. I have managed to get one year statement of charges they post to my account and six (6) charges are questionable such as being charged homeowners insurance twice in a matter of 2 months for as much as \$4427, corporate advance adjustments of \$1,850, \$1,006 & \$154, statutory exp disb of \$581 all marked with asterisk (*).

Moreover they have not send me regular statements nor have they send me General Loan Ledger from inception of loan till date when I have requested them so many times under Qualified Written Request.

It is these and other such questionable charges and a higher interest charged to my account that has pushed the limit to beyond Chapter 13, not to mention their utter failure to modify the Mortgage in the earlier stages.

3). Besides I have already submitted an objection to the proof of claim as well as adversary proceeding and while Your Honor stated Rooker Feldman prevented Your Honor from interfering in State Judgment, very recently some 2 months ago New York State Gov Cuomo has adapted the following resolution with respect to foreclosures which all but invalidates the Rooker Feldman and Res Judicata argument with respect to foreclosures very clearly.

New Law Permits Borrower to Raise the Bank's Lack of Standing W in Default in Answering the Summons and Complaint.

1/8/2020

0 Comments

Governor Cuomo recently signed a new law (NYS bill S5160) that now gives a substantial right to borrowers in a fore Section 1302-a. Before this new law, if the borrower defaulted in the foreclosure action, the borrower would have h his/her default and show a good reason for defaulting along with a showing that there were meritorious defenses to however, were denied because the borrower could not prove good cause for defaulting unless the default occurred Under the new law, the borrower can assert standing anytime and even after a foreclosure sale if the borrower v effective immediately permits borrowers with another bite at the apple and it's a potential game changer. The following [link](https://www.nysenate.gov/legislation/bills/2019/s5160)

<https://www.nysenate.gov/legislation/bills/2019/s5160>

4). What is my bad karma that the lender had approved a modification 6 months ago for some \$2,000,000 and yet refused to modify the mortgage by lowering the principal to the market value even though their own appraisal came in at \$900,000 saying that I will not be able to afford the modified mortgage – just what makes them think and where is the logic that they think and approve a modification for more than double the value and yet question the affordability for less than half the approved amount. Not only that they continue to hound and follow by their own admission during my entire bankruptcy stay thus violating my automatic stay all along.

5). Further the creditor's attorney gave me an unwanted legal advise to convert Chapter 13 to Chapter 11 on/before the hearing date of this motion of March 18, 2020 but who are they to give me advise and limit my time to file chapter 11 and neither should the court seek to prejudice my future chapter 11 filing because I have never filed a Chapter 11 to begin with. If and when I do need to file Chapter 11 it will be done with

While I am moving with great difficulty by filing Chapter 13 Pro Se without any attorney, Chapter 11 is Much more complicated filing and I would require an able attorney to do so for which cost will be again Astronomical as I have heard figures of min \$7500. Moreover most attorneys do not even handle and File Chapter 11 as most are concentrated in Chapter 7 & Chapter 13 and to pay for that many hours to Attorneys who can charge in excess of \$200/hour a careful thought process has to go into it.

Date: March 9th 2020

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Thanwar K Punjabi', with a stylized flourish extending from the top right.

Thanwar K Punjabi
Debtor

SPS SELECT
Portfolio
SERVICING, inc.
P.O. Box 65250
Salt Lake City, UT 84165-0250

February 14, 2020

THANWAR K PUNJABI
20 TULIP LN
SYOSSET NY 11791

7294



Account Number: 0015390263

Dear Customer(s):

As the mortgage servicer on the above referenced account, Select Portfolio Servicing, Inc. (SPS) has enclosed your annual account activity statement.

If you have any questions regarding this letter or your annual history statement, please contact our Customer Service Department toll-free at 1-800-258-8602. Representatives are available Monday through Thursday between the hours of 8 a.m. and 11 p.m., Friday from 8 a.m. to 9 p.m. and Saturday from 8 a.m. to 2 p.m., Eastern Time. You may also write to us at P.O. Box 65250, Salt Lake City, UT 84165-0250.

Sincerely,

Select Portfolio Servicing, Inc.

FOR NY RESIDENTS: SPS is registered with the New York State Department of Financial Services. You may file complaints or obtain further information from the Department by calling the Department's Consumer Assistance Unit at 1-877-BANK-NYS (226-5697) or by visiting the Department's website at <http://www.dfs.ny.gov/>.

Esta carta contiene información importante concerniente a sus derechos. Por favor, traduzca esta carta. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta. Llámenos al numero 800-831-0118 y seleccione/marque la opción 2.

**This information is intended for informational purposes only
and is not considered an attempt to collect a debt.**

THANWAR K PUNJABI
20 TULIP LN

RE: Loan No. 0015390263

----- ACCOUNT ACTIVITY STATEMENT -----

TRANSACTION DESCRIPTION	PROCESS DATE	DUE DATE	TOTAL AMOUNT	PRINCIPAL AMOUNT	INTEREST AMOUNT	ESCROW AMOUNT	FEES	OPTIONAL INSURANCE	MISC
HOMEOWNERS INS	01/02	01/19	\$374.67-	\$0.00	\$0.00	\$374.67-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	01/02	06/08	\$374.67	\$0.00	\$0.00	\$374.67	\$0.00	\$0.00	\$0.00
CITY TAX	01/16	01/19	\$3,250.31-	\$0.00	\$0.00	\$3,250.31-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	01/16	06/08	\$3,250.31	\$0.00	\$0.00	\$3,250.31	\$0.00	\$0.00	\$0.00
HOMEOWNERS INS	01/31	02/19	\$374.67-	\$0.00	\$0.00	\$374.67-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	01/31	06/08	\$374.67	\$0.00	\$0.00	\$374.67	\$0.00	\$0.00	\$0.00
HOMEOWNERS INS	02/28	03/19	\$374.67-	\$0.00	\$0.00	\$374.67-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	02/28	06/08	\$374.67	\$0.00	\$0.00	\$374.67	\$0.00	\$0.00	\$0.00
ATTORNEY FEES DISB	03/05		\$990.00	\$0.00	\$0.00	\$0.00	\$990.00	\$0.00	\$0.00
STATUTORY EXP DISB	03/05		\$2.72	\$0.00	\$0.00	\$0.00	\$2.72	\$0.00	\$0.00
*HOMEOWNERS INS	04/01	04/19	\$374.67-	\$0.00	\$0.00	\$374.67-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	04/01	06/08	\$374.67	\$0.00	\$0.00	\$374.67	\$0.00	\$0.00	\$0.00
HOMEOWNERS INS	04/11	04/19	\$4,424.00-	\$0.00	\$0.00	\$4,424.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	04/11	06/08	\$4,424.00	\$0.00	\$0.00	\$4,424.00	\$0.00	\$0.00	\$0.00
SCHOOL TAX	04/12	04/19	\$16,368.26-	\$0.00	\$0.00	\$16,368.26-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	04/12	06/08	\$16,368.26	\$0.00	\$0.00	\$16,368.26	\$0.00	\$0.00	\$0.00
HAZARD INS REFUND	04/15	06/08	\$292.03	\$0.00	\$0.00	\$292.03	\$0.00	\$0.00	\$0.00
REPAY OF ESCROW ADVANCE	04/15	06/08	\$0.00	\$0.00	\$0.00	\$292.03-	\$0.00	\$0.00	\$0.00
*STATUTORY EXP DISB	05/20		\$581.00	\$0.00	\$0.00	\$0.00	\$581.00	\$0.00	\$0.00
*HOMEOWNERS INS	06/05	04/20	\$4,027.00-	\$0.00	\$0.00	\$4,027.00-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	06/05	06/08	\$4,027.00	\$0.00	\$0.00	\$4,027.00	\$0.00	\$0.00	\$0.00
VILLAGE TAX	06/18	06/19	\$1,487.89-	\$0.00	\$0.00	\$1,487.89-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	06/18	06/08	\$1,487.89	\$0.00	\$0.00	\$1,487.89	\$0.00	\$0.00	\$0.00
CITY TAX	07/16	07/19	\$3,250.30-	\$0.00	\$0.00	\$3,250.30-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	07/16	06/08	\$3,250.30	\$0.00	\$0.00	\$3,250.30	\$0.00	\$0.00	\$0.00
*CORPORATE ADVVANCE ADJUS	07/30		\$154.85-	\$0.00	\$0.00	\$0.00	\$154.85-	\$0.00	\$0.00
*CORPORATE ADVVANCE ADJUS	07/30		\$1,850.00-	\$0.00	\$0.00	\$0.00	\$1,850.00-	\$0.00	\$0.00
*CORPORATE ADVVANCE ADJUS	07/30		\$1,006.13-	\$0.00	\$0.00	\$0.00	\$1,006.13-	\$0.00	\$0.00
*SCHOOL TAX	10/16	10/19	\$14,449.27-	\$0.00	\$0.00	\$14,449.27-	\$0.00	\$0.00	\$0.00
ESCROW ADVANCE	10/16	06/08	\$14,449.27	\$0.00	\$0.00	\$14,449.27	\$0.00	\$0.00	\$0.00

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In re:

Thanwar K Punjabi
Debtor

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Debtor.

Chapter 13
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CERTIFICATE OF SERVICE

The undersigned certifies that on March 09, 2020, a copy of
(Date of Service/Mailing)

Objection to Creditor's Motion to Dismiss & Affidavit in Opposition to Creditor Motion to Dismiss,

(Title of Document(s) served)


was deposited in an enclosed, properly addressed postage-paid envelope, and served by

(Method of Delivery, e.g., Federal Express Overnight, U.S. Post Office Priority Mail.....)

upon the following *[below specify the name and mailing address of each party served]*:

PARKER, IBRAHIM & BERG LLP
270 DAVIDSON AVENUE, 5TH FLOOR,
SOMERSET, NJ 08873
ATTN: MITCHELL ZIPKIN
RACHEL PARKER

Dated: MARCH 09, 2020



Signature

Print name: THANWAR K PUNJABI

Address: 20 TULIPLANE,
SYOSSET, NY 11791

Phone: 516-353-7448

Email: THANWARPUNJABI@YAHOO.COM